IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3060 OF 2005

Gopal Hukka Bokshe ...Petitioner.

Versus

The State of Maharashtra
and Ors. ...Respondents.

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Ms.Indrayani Koparkar, Advocate for the Petitioner.
Mr.V.B.Konde-Deshmukh, A.P.P. for the State.

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CORAM : D.G.DESHPANDE AND
SMT.V.K.TAHILRAMANI,JJ.
DATE OF RESERVING : MAY 02, 2006.
THE ORDER

DATE OF PRONOUNCING: JUNE 28,2006.
THE ORDER

ORAL ORDER (PER SMT.TAHILRAMANI,J.)

. Heard Ms.Koparkar learned Advocate for the petitioner and Mr.Konde-Deshmukh learned APP for the State.

2. The petitioner had preferred an application for parole on the ground of illness of his wife, which came to be rejected. The application came to be rejected on the ground that on earlier occasion when the petitioner was released from prison on parole he did not return back in time and he overstayed for about ten years. When the petitioner was released on parole, he absconded and ultimately he had to be traced by the police and brought back to prison.

3. As far as parole is concerned, grant of parole is discretionary. The rules relating to parole have been amended now. Parole can be granted only in case of the contingencies mentioned in the Rules, like death, illness of relative or in case of natural calamity like earthquake, floods etc.. It is only in such cases that parole can be granted and not for any other reasons like fixing marriage of a relative or attending marriage of some relative etc.. This is clear from the decision of the Full Bench of this Court in the case of **S.Sant Singh @ Pilli Singh Ajit Singh Kalyani Vs. The Secretary, Govt. of Maharashtra & Ors.,** reported in **2006(2) Mh.L.J. 422.**

4. In cases of parole there is no decision which holds that a prisoner has a right to be released on parole. Moreover, the rules specifically state that a prisoner has no legal right to claim release on parole. Infact previous decisions of the Division Bench in the case of **Sharad Keshav Mehta Vs. State of Maharashtra and Ors.,** reported in **1989 Cr.L.J. 681** and other decisions hold that grant of parole is discretionary and a prisoner has no right to claim release on parole.

5. In the present case, the petitioner had absconded for about ten years when he was earlier released on parole and after much efforts he was traced by the police and brought back to prison.

6. Parole being discretionary, it may be denied to a prisoner even when he makes out sufficient cause for release on parole, if the competent authority is satisfied on valid grounds that release of a prisoner on parole would be against the interest of the society or the prison administration. For example, a prisoner who has once escaped or absconded or attempted to escape or who is likely to escape, may be denied parole because under Rule 19 the competent authority has the discretion to grant or refuse parole even when cause is shown.

7. In a case where a prisoner has earlier absconded when he was released on furlough or parole for a period of six months or more, no fault can be found with the authorities if they reject the application for parole. Hence a decision rejecting an application for parole on grounds of absconsion especially for such a long

period of about ten years would not call for any interference.

8. In view of the above, the present Writ Petition is rejected.

(D.G.DESHPANDE, J.)

(SMT.V.K.TAHILRAMANI,J.)